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APPLICATION NO. **FILING DATE** FIRST NAMED INVENTOR ATTORNEY DOCKET NO. 09/729,279 12/05/00 YAMAWAKI 35014978 **EXAMINER** 005514 MM91/1017 FITZPATRICK CELLA HARPER & SCINTO LFF S 30 ROCKEFELLER PLAZA **ART UNIT** PAPER NUMBER NEW YORK NY 10112 2852 DATE MAILED: 10/17/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

| Office Action Summary Susan S. Lee Susan S. Le | | Application No. | Applicant(s) | |
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| Period for Reply Art Unit 2852 | | • | | |
| Susan S. Lee 3852 | Office Action Summary | | | |
| The MALING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALING DATE OF THIS COMMUNICATION. Eatherison of time may be available under the provisions of 37 CER 1.13(a). In no event, however, may a reply be timely filed at the St. (b) McDit's form the maling date of this communication. Eatherison of time may be available under the provisions of 37 CER 1.13(a). In no event, however, may a reply be timely filed at the St. (b) McDit's form the maling date of this communication. **End provision of the provision of the provision of the provision of the communication of the provision of the provision of the communication of the communication. **Palave to reply subition the set or extended price for reply vall. by datable, cause the application to become ABANDONED (35 U.S.C. § 133). **Palave to reply whithe the set or extended price for reply vall. by datable, cause the application to become ABANDONED (35 U.S.C. § 133). **Palave to reply whithe the set or extended price for reply vall. by datable, cause the application to exceed the provision of the provision of Claims (s) | · | | | |
| A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Etherison of their margin exhalited intelligence of 3 CPR 1.35(d), to nevent, however, may a reply be timely filled Etherison of their margin exhalited in the provision of 3 CPR 1.35(d), to nevent, however, may a reply be timely filled If the period for reply a specified above is less than bristy (30) days, a reply villar the statutory mindrature of their their period for reply a specified above, the maximum statutory period valley give and villed gives (50) (AMOTHS to time 1) (20) (31). Any analy received by the Office later than-these months after the malling date of this communication, even if limby filter, may reduce any seamed planet term adjustment. Sea 2 CPR 1.704(b). Status 1) Responsive to communication(s) filed on | The MAILING DATE of this communication app | | | |
| THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provision of 3°CFR 1.13(6). In or event, however, may a reply be timely filed after SX (6) MONTHS from the mailing date of this communication. - If the princid creekly expelled above is less that without a communication of the communication of the provision of the provisio | Period for Reply | | | |
| 2a) This action is FINAL. 2b) This action is non-final. 3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-16 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5 Claim(s) 1-16 is/are rejected. 7) Claim(s) is/are allowed. 8) Claim(s) 1-16 is/are rejected to. 8) Claim(s) is/are subjected to. 8) Claim(s) is/are subjected to by the Examiner. 4Application Papers 9 The specification is objected to by the Examiner. 10 The drawing(s) filed on is/are: a) accepted or bi objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is/are: a) approved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12 The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some c) None of: 1. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) Attachment(s) 10 Notice of References Cited (PTO-892) 10 Notice of Informal Patent Application (PTO-152) | THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). | | | |
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| | | 5) Notice of Informal I | | |

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Claim Rejections - 35 USC § 112

DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1, line 14, "the optical axis" lacks antecedent basis.

As to claim 2, line 2, "substantially symmetrical" is not understood why it is in quotes in the claim.

As to claims 14-16 are ambiguous since these claims recite a process of manufacturing an optical scanning apparatus by reciting the steps of "causing shift adjusting means to shift the laser unit" without any positive steps delimiting how this apparatus is actually made (ie. molding, adhering, bonding, welding, etc).

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Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 14-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to neither a "process" nor a "machine", but rather embraces or overlaps two different statutory classes of invention set forth in 35 U. S. C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only.

Allowable Subject Matter

- 5. Claims 1-13 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
- 6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Suzuki et al. (962), Yoshida et al. (094), Burdick et al. (918), Marino et al. (247), Norton (EP, 50425A2), Herloski et al. (859), Komatsu (248), Akatsu (Japan, 726), and Saito (Japan, 300) disclose art in scanning devices.
- 7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Lee whose telephone number is (703)308-2138.

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The fax number of this Group is (703) 305-3432.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703)308-0956.

S. Lee

Primary Examiner Art Unit 2852

October 15, 2001